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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION SIX

In re Taylor M., a Person Coming Under  
the Juvenile Court Law.

2d Juv. No. B215562  
(Super. Ct. No. 2005004645)  
(Ventura County)

THE PEOPLE,

Plaintiff and Respondent,

v.

TAYLOR M.,

Defendant and Appellant.

ORDER MODIFYING OPINION  
AND DENYING REHEARING  
[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on February 18, 2010, be modified as follows:

1. On page 2, the last paragraph beginning on page 2 and ending on page 3 is deleted, and replaced with the following paragraph:

In a review report filed on January 9, 2008, the probation department recommended that the court revoke appellant's DEJ placement payment. The report stated that appellant had completed 80 hours of community service and a counseling program. His school attendance and behavior were satisfactory;

he was working to improve a failing grade; he had also earned two A's and a B. Appellant had made just two restitution payments since April 2006 (a \$25 payment on June 14, 2006, and a \$100 payment on October 25, 2007), and he missed five appointments, and "several appointments [had] been rescheduled to accommodate the famil[y's] needs and transportation issues." The report described appellant's recent family hardships, including his father's disability, and his mother's stroke and cancer conditions. The report indicated that appellant "should have made some sort of effort every month" even if he could not make a full payment.

2. On page 4, first sentence of the first full paragraph of the DISCUSSION, insert the words "to due process and equal protection" between the words "constitutional rights" and "by failing to reduce" so that the paragraph reads:

Appellant contends that the court abused its discretion and violated his constitutional rights to due process and equal protection by failing to reduce his monthly restitution to an amount that he could afford to pay, and revoking his DEJ placement for failing to make restitution payments.

3. On page 6, before the first full paragraph, the following new paragraph is added:

In making his equal protection argument, appellant cites *In re Antazo* (1970) 3 Cal.3d 100, an inapposite case. *Antazo* held that the incarceration of a defendant because of his inability, due solely to indigency, to pay a fine imposed on him as a condition of probation constituted a violation of equal protection. (*Id.* at p. 115.) Unlike the defendant in *Antazo*, appellant did not incur imprisonment. Moreover, the termination of his DEJ status was not due solely to his indigency. Appellant failed to show that he

did everything necessary to comply with his obligation to pay at least some restitution and meet regularly with the probation department. His mother's testimony establishes that he could have made payments of one dollar or 50 cents. Despite the substantial hardships facing appellant's family and his efforts to obtain independent study status at school or find a job that did not interfere with his school schedule, appellant failed to follow through with the probation department's suggestions to seek modification of his payment plan, as we have discussed above, or to make very small payments. The testimony of the probation officer establishes that appellant's failure to do these things directly influenced her recommendation that the court terminate his DEJ status. Similarly, the court commented upon appellant's failure to make a good faith effort in concluding that he required further rehabilitation, and revoking the DEJ order. The court also indicated that with formal probation, appellant could obtain benefits from supervision and additional services that are not available in the DEJ program, and that such services would hopefully assist appellant in completing his education.

There is no change in the judgment.

Respondent's petition for rehearing is denied.